

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VIRGIL DOUGLAS RANDALL,

Petitioner,

v.

RICHARD J. DONOVAN
CORRECTIONAL FACILITY,

Respondent.

No. 2:23-cv-1480 DAD KJN P

ORDER AND FINDINGS &
RECOMMENDATIONS

By order filed August 1, 2023, petitioner's application for writ of habeas corpus was dismissed, and he was granted thirty days leave to file an amended petition and to submit an affidavit in support of his request to proceed in forma pauperis or the appropriate court filing fee. On September 12, 2023, it was recommended that the action be dismissed based on petitioner's failure to file an amended petition and failure to file an application to proceed in forma pauperis or pay the court's filing fee. (ECF No. 7.) On that same day, petitioner's amended petition was docketed. (ECF No. 6.) Therefore, the prior recommendations are vacated.

However, petitioner has not filed an affidavit or paid the filing fee. The court is unable to address the amended petition until petitioner either pays the filing fee or is granted leave to proceed in forma pauperis.

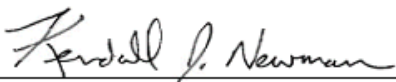
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1 In accordance with the above, IT IS HEREBY ORDERED that the September 12, 2023
2 findings and recommendations (ECF No. 7) are vacated; and

3 IT IS RECOMMENDED that this action be dismissed without prejudice. See Local Rule
4 110; Fed. R. Civ. P. 41(b).

5 These findings and recommendations are submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
7 after being served with these findings and recommendations, petitioner may file written
8 objections with the court. Such a document should be captioned “Objections to Magistrate
9 Judge’s Findings and Recommendations.” Petitioner is advised that failure to file objections
10 within the specified time may waive the right to appeal the District Court’s order. Martinez v.
11 Ylst, 951 F.2d 1153 (9th Cir. 1991).

12 Dated: October 3, 2023

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14 KENDALL J. NEWMAN
15 UNITED STATES MAGISTRATE JUDGE

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